

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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THOMAS GESUALDI, LOUIS BISIGNANO,  
DARIN JEFFERS, MICHAEL O'TOOLE,  
MICHAEL BOURGAL, FRANK H. FINKEL,  
JOSEPH A. FERRARA, SR., MARC HERBST,  
DENISE RICHARDSON, and THOMAS  
CORBETT as Trustees and fiduciaries  
of the Local 282 Welfare Trust Fund,  
the Local 282 Pension Trust Fund,  
the Local 282 Annuity Trust Fund,  
the Local 282 Job Training Trust  
Fund, and the Local 282 Vacation  
and Sick Leave Trust Fund,

Plaintiffs,

**ORDER ADOPTING REPORT  
AND RECOMMENDATION**

19-CV-4183 (KAM)(PK)

-against-

BEDFORD CONTAINER SERVICES INC.,

Defendant.

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**MATSUMOTO, United States District Judge:**

By a thorough and carefully analyzed Report and  
Recommendation dated August 13, 2020 (the "R&R"), Magistrate  
Judge Peggy Kuo recommended that the court enter a default  
judgment in favor of plaintiffs Thomas Gesualdi, Louis  
Bisignano, Darin Jeffers, Michael O'Toole, Michael Bourgal,  
Frank H. Finkel, Joseph A. Ferrara, Sr., Marc Herbst, Denise  
Richardson, and Thomas Corbett as trustees and fiduciaries of  
the Local 282 Welfare Trust Fund, the Local 282 Pension Trust  
Fund, the Local 282 Annuity Trust Fund, the Local 282 Job  
Training Trust Fund, and the Local 282 Vacation and Sick Leave

Trust Fund, in the amount of \$175,820.80 for unpaid contributions; \$36,839.74, plus \$86.71 per day, from the date of the R&R to the date of judgment, for interest on unpaid contributions; liquidated damages in an amount equal to the total interest; \$3,713.75 for attorneys' fees; and \$508.14 for costs. Magistrate Judge Kuo advised the parties that they had 14 days from the date of service of the R&R in which to file objections, and that failure to timely file any just objection waives the right to further judicial review. *Caidor v. Onondaga Cty.*, 517 F.3d 601, 604 (2d Cir. 2008). The R&R was served on defendant Bedford Container Services Inc. on August 14, 2020 by UPS Next Day Air. (ECF No. 15, Affidavit of Service.) To date, neither party has filed an objection to the R&R, and the 14-day deadline to file objections elapsed on August 28, 2020.

Pursuant to 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72, the court has reviewed the R&R for clear error and, finding none, adopts the R&R in large part. See *Covey v. Simonton*, 481 F. Supp. 2d 224, 226 (E.D.N.Y. 2007).

With respect to the service of process, the court entered an order directing plaintiff's counsel to "file an invoice or other documentation supporting the requested award of \$295 in costs for service of process[.]" (Dkt. Order dated 8/31/2020.) Pursuant to the court's August 31, 2020 order, plaintiff's counsel submitted an invoice from Serving by Irving

Inc. in the amount of \$295. Therefore, the court finds that \$295 is reasonable and adequately documented, and the court will award the amount documented. See *Gesualdi v. Seacost Petroleum Prods., Inc.*, 97 F. Supp. 3d 87, 108 (E.D.N.Y. 2015).

Accordingly, it is

ORDERED that the R&R is adopted in large part, with the aforementioned change with respect to cost for service of process, and the Clerk of Court is respectfully directed to enter judgment in favor of plaintiffs and against defendant in the amount of:

- (1) Unpaid contributions, consisting of \$175,820.80;
- (2) Interest on unpaid contributions through September 3, 2020, in the amount of \$38,747.36;
- (3) Liquidated damages in the amount equal to the total interest;
- (4) Attorney's fees of \$3,713.75; and
- (5) Costs of \$703.14, including the filing fee, service of process and postage.

The Clerk of Court is further directed to mail a copy of the judgment and this Order to defendant, to note that mailing on the docket, and to close this case.

**SO ORDERED.**

\_\_\_\_\_/s/\_\_\_\_\_  
HON. KIYO A. MATSUMOTO  
United States District Judge

Dated: September 3, 2020  
Brooklyn, New York